

SECOND REGULAR SESSION

[P E R F E C T E D]

SENATE BILL NO. 1211

92ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR WHEELER.

Read 1st time February 4, 2004, and ordered printed.

Read 2nd time February 9, 2004, and referred to the Committee on the Judiciary and Civil and Criminal Jurisprudence.

Reported from the Committee March 15, 2004, with recommendation that the bill do pass and be placed on the Consent Calendar.

Taken up March 31, 2004. Read 3rd time and placed upon its final passage; bill passed.

TERRY L. SPIELER, Secretary.

4203S.01P

AN ACT

To repeal section 535.030, RSMo, and to enact in lieu thereof one new section relating to the service of summons in landlord/tenant actions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Section 535.030, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 535.030, to read as follows:

535.030. 1. Such summons shall be served as in other civil cases at least four days before the court date in the summons. The summons shall include a court date which shall not be more than twenty-one business days from the date the summons is issued unless at the time of filing the affidavit the plaintiff or plaintiff's attorney consents in writing to a later date.

2. In addition to attempted personal service, the plaintiff may request, and thereupon the clerk of the court shall make an order directing that the officer, or other person empowered to execute the summons, shall also serve the same by securely affixing a copy of such summons and the complaint in a conspicuous place on the dwelling of the premises in question at least ten days before the court date in such summons, and by also mailing a copy of the summons and complaint to the defendant at the defendant's last known address by ordinary mail [and by certified mail, return receipt requested, deliver to addressee only,] at

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

least ten days before the court date. If the officer, or other person empowered to execute the summons, shall return that the defendant is not found, or that the defendant has absconded or vacated his usual place of abode in this state, and if proof be made by affidavit of the posting and of the mailing of a copy of the summons and complaint, the judge shall at the request of the plaintiff proceed to hear the case as if there had been personal service, and judgment shall be rendered and proceedings had as in other cases, except that no money judgment shall be granted the plaintiff where the defendant is in default and service is by the posting and mailing procedure set forth in this section.

3. If the plaintiff does not request service of the original summons by posting and mailing as provided in subsection 2 of this section, and if the officer, or other person empowered to execute the summons, makes return that the defendant is not found, or that the defendant has absconded or vacated the defendant's usual place of abode in this state, the plaintiff may request the issuance of an alias summons and service of the same by posting and mailing in the time and manner provided in subsection 2 of this section. In addition, the plaintiff or an agent of the plaintiff who is at least eighteen years of age may serve the summons by posting and mailing a copy of the summons in the time and manner provided in subsection 2 of this section. Upon proof by affidavit of the posting and of the mailing of a copy of the summons or alias summons and the complaint, the judge shall proceed to hear the case as if there had been personal service, and judgment shall be rendered and proceedings had as in other cases, except that no money judgment shall be granted the plaintiff where the defendant is in default and service is by the posting and mailing procedure provided in subsection 2 of this section.

4. On the date judgment is rendered as provided in this section where the defendant is in default, the clerk of the court shall mail to the defendant at the defendant's last known address by certified mail, with a request for return receipt and with directions to deliver to the addressee only, a notice informing the defendant of the judgment and the date it was entered, and stating that the defendant has ten days from the date of the judgment to file a motion to set aside the judgment or to file an application for a trial de novo in the circuit court, as the case may be, and that unless the judgment is set aside or an application for a trial de novo is filed within ten days, the judgment will become final and the defendant will be subject to eviction from the premises without further notice.